



FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) FEDERAL INSURANCE MITIGATION ADMINISTRATION (FIMA) APPEAL DECISION

FEMA Flood Insurance Appeal Decision #C14

OVERVIEW

The policyholder filed an appeal on January 2019 alleging his flood insurance carrier (hereinafter “insurer”) improperly denied part of his claim under the Standard Flood Insurance Policy (SFIP)¹ for damages to covered property arising from a flood event dated October 2018.²

In its review, FEMA found the following facts relevant:

- At the time of loss, the policyholder had \$250,000 in building coverage.
- At the time of loss, the insured building was rated as an elevated building, constructed after the community entered the National Flood Insurance Program, and located in special flood hazard area, flood zone AE.
- The policyholder reported the flood loss to the insurer and the insurer assigned an adjuster to the claim. The adjuster inspected the building and identified floodwater marks indicating a flood existed at the property. The adjuster measured waterlines of 80 inches on the exterior of the building and 77 inches on the interior of the building’s ground level lower enclosure.
- The adjuster applied the SFIP’s coverage limitations within the lower enclosure and recommended a payment on the claim of \$9,310.43.
- The policyholder did not agree with the adjuster’s recommendation and submitted his own proof of loss.
- The insurer reviewed the policyholder’s proof of loss. In a letter dated December 2018, the insurer denied the policyholder’s payment request. The insurer’s denial letter cited the SFIP’s provision that limits coverage within an elevated building to the lower level of the home.
- On appeal, the policyholder states the home is a non-elevated building and that the coverage limitation does not apply to the property located or installed in the building’s lower enclosure. The policyholder provides a written statement and photographs in support of the appeal.

RULES

An elevated building is defined as a building that has no basement and that has its lowest elevated floor raised above ground level by foundation walls, shear walls, post, piers, pilings, or columns.³

¹ See 44 C.F.R. § 61.13 (2017); Dwelling Form available at 44 C.F.R. pt. 61 App. A(1) [hereinafter “SFIP”].

² The policyholder files this appeal under 44 C.F.R. § 62.20. The appeals process is available after the insurer issues a written denial, in whole or in part, of the policyholder’s claim. The policyholder’s appeal and related documents concerning the appeal, claim, or policy are on file with FEMA, Federal Insurance and Mitigation Administration, Federal Insurance, Policyholder Services Division, Appeals Branch [hereinafter “Appeal File”].

³ See SFIP (II)(B)(14).

Only Post-FIRM elevated buildings in special flood hazard areas are subject to coverage restrictions under the SFIP. Non-elevated buildings (except areas that meet the definition of a basement) are not subject to this limitation.⁴

ANALYSIS

On appeal, the policyholder disagrees with the insurer's rating his home an elevated building and limiting coverage to his building's first floor level. The policyholder provides photographs that depict the insured building is constructed with a load-bearing concrete slab-on-grade. The photographs also show the lowest elevated floor is supported by wood framing installed over the concrete slab.

The SFIP states post-FIRM (Flood Insurance Rate Map) elevated buildings located in flood zone AE are subject to the policy provision, which limits coverage to building and personal property items listed in the SFIP. However, this coverage limitation does not apply to non-elevated buildings.

FEMA's review notes that the foundation elements that determine the building elevation status are not confirmed within the claim file. The building appears to be elevated and is rated as such by the insurer.

However, FEMA reviewed the policyholder's photographs with the finish interior wall coverings removed. FEMA finds it is evident the lowest elevated floor is not raised above the ground level by foundation walls, shear walls, post, piers, pilings, or columns as required in the SFIP for an elevated building. The lowest elevated floor in this two-story building is supported by a load-bearing perimeter, interior wood framing, and is installed directly on the concrete slab. FEMA's review does not identify evidence suggesting the wall framing is non-loading bearing, or that the wall framing is supported by foundation footers rather than a concrete slab.

Based on the information provided, and in view of rules established by the National Flood Insurance Program⁵, FEMA finds the building is a non-elevated building.

CONCLUSION

Based on the facts and analysis above, FEMA overturns the denial. FEMA directs the insurer to re-rate its policy as a non-elevated building, back to the term period when the loss occurred, and to collect any additional premiums due based on this new rating. FEMA also directs the insurer to apply SFIP coverage on the subject claim in sync with a non-elevated building.

⁴ See SFIP (III)(A)(8).

⁵ See National Flood Insurance Program, Flood Insurance Manual, Section 3 *How to Write* and Appendix C *Lowest Floor Guide*, <https://www.fema.gov/media-library/assets/documents/171681> (Oct. 1, 2018).